

ESTTA Tracking number: **ESTTA642572**

Filing date: **12/04/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91218632
Party	Defendant MERCK KGAA
Correspondence Address	WILLIAM C WRIGHT EPSTEIN DRANGEL LLP ONE GRAND CENTRAL PLACE , 60 E 42ND ST STE 2410 NEW YORK, NY 10165-0011 UNITED STATES mail@ipcounselors.com
Submission	Answer
Filer's Name	William C. Wright
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Signature	/William C. Wright/
Date	12/04/2014
Attachments	DOC120414smart1.pdf(79421 bytes)

In the Matter of the Trademark Application for
SMARTFLARE, Ser. No. 85/868160, in the name of Merck KGaA

Applicant.

4. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments in numbered paragraph 4 of the Notice of Opposition and therefore denies

same.

5. Deny.

Any remaining allegations do not require an admission or denial by Applicant. To the extent a response is required, the allegations are denied. Unless specifically admitted herein, all allegations are denied.

AFFIRMATIVE DEFENSES

First Affirmative Defense

The counterclaims fail to state a claim upon which relief can be granted to Opposer.

Second Affirmative Defense

Opposer's counterclaims are barred by the doctrine of estoppel and/or unclean hands.

Third Affirmative Defense

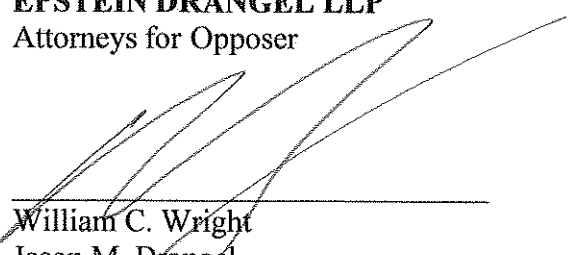
Opposer's counterclaims are barred by the doctrine of waiver and/or acquiescence.

Respectfully submitted,

EPSTEIN DRANGEL LLP
Attorneys for Opposer

Dated: December 4, 2014

BY:



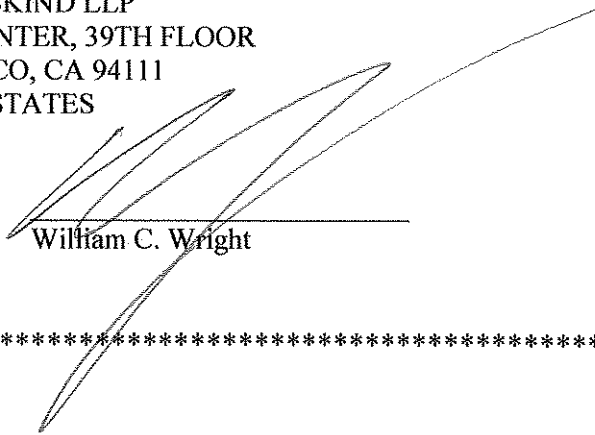
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CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Notice of Opposition was served by First Class Mail, with sufficient postage prepaid, on this 4th day of December, 2014, upon Opposer's attorney:

IAN K BOYD
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SAN FRANCISCO, CA 94111
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BY:


William C. Wright
